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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,584	06/29/2001	Chung-Sheng Li	YOR920010407US1	7893

7590 05/07/2007  
Ryan, Mason & Lewis, LLP  
90 Forest Avenue  
Locust Valley, NY 11560

EXAMINER
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SHEIKH, ASFAND M

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/896,584	LI ET AL.	
	Examiner	Art Unit	
	Asfand M. Sheikh	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-9, 13, 15-18, 21-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-9, 13, 15-18, 21-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

The amendment filed 15-Feb-2007 has been entered. Claims 1-4, 7-9, 13, 15-18, 21-23, 25 and 26 are currently pending for examination.

The examiner maintains the same rejection found in the previous office action dated on 12-Oct-2006. This action is made final.

***Response to Amendment***

1. The affidavit filed on 15-Feb-2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Neumayer reference.

2. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Neumayer reference to either a constructive reduction to practice or an actual reduction to practice. The examiner notes that the submitted evidence fails to show diligence from the time period between 01-May-2001 to 29-June-2001. The examiner notes that actual dates of acts regarding diligence must be provided in order to establish proper diligence. The examiner notes that from 01-May-2001 to 21-June-2001 there is lack of sufficient evidence showing diligence (e.g. attorney's end).

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Further from 21-June-2001 to 29-June-2001 there is lack of sufficient evidence showing due diligences (inventor's and attorney's end). The examiner suggests providing documentation that supports due diligence during these time frames. The examiner notes such documentation would include declarations of the party's involved documenting diligence regarding the work performed on the invention (e.g. sworn statements regarding work performed on the invention during these time frames), documentation showing the processing and work of invention on an attorney's docket (e.g. proof showing the case was docketed in a queue and worked in a manor that did not bypass the queued docket (e.g. all cases were worked in a first in first out sequence)), etc. The examiner further notes, even after evidence is submitted, it is up to the examiner discretion to establish diligence (see MPEP; 715.07 and 2138.04-2138.06).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 1-4, 7-9, 13, 15-18, 21-23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al. United States Patent 5,749,081 (hereinafter Salvo) in view of Neumayer United States Patent Application Publication 2002/0168679.

As per claim 1, Salvo discloses at least one broker device automatically collecting information relating to a status associated with at least one inventory item from one or more sources (col. 3, lines 52-55 and col. 4, lines 32-41), the at least one broker device automatically accessing at least one inventory price source in order to: (1) obtain information to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item (col. 3, lines 57-62 and col. 6, lines 7-49); and information related to an order of the inventory item from the provider of the inventory (col. 5, lines 7-10 and col. 7, lines 23-54); aggregating and deaggregating order information related to an inventory item (col. 6, lines 47-62).

Salvo fails to explicitly disclose an electronic market place wherein the electronic market place comprises an

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electronic trading network site; ordering a quantity of inventory via the electronic market place; and the at least one broker device one of aggregating and deaggregating multiple orders for the inventory as to minimize an overall purchasing cost attributable to the multiple orders.

However Neumayer discloses an electronic market place wherein the electronic market place comprises an electronic trading network site (0002 and 0018); ordering a quantity of inventory via the electronic market place (0018); and a broker device one of aggregating and deaggregating multiple orders for the inventory as to minimize an overall purchasing cost attributable to the multiple orders (0005-0007; 0027; and 0040 Examiner notes a restriction to an aggregation rule would deaggregate an order).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Salvo to include an electronic market place wherein the electronic market place comprises an electronic trading network site; ordering a quantity of inventory via the electronic market place; and a broker device one of aggregating and deaggregating multiple orders for the inventory as to minimize an overall purchasing cost attributable to the multiple orders as taught by Neumayer. One of ordinary skill in the art would have been

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motivated to combine the teachings in order to combine multiple orders in order to take advantage of volume discounts (Neumayer, 0004).

As per claims 2, Salvo discloses the electronic market place accessing step further comprises monitoring at least one of pricing and supply trends associated with at least one electronic marketplace on the at least one inventory item (col. 6, lines 11-19).

As per claims 3, Salvo discloses the one or more optimal parameters comprise an optimal time to acquire the at least one inventory item via the at least one electronic marketplace (col. 6, lines 41-43).

As per claims 4, Salvo discloses the one or more optimal parameters comprise an optimal quantity of the at least one inventory item to acquire via the at least one electronic marketplace (col. 6, lines 32-34 and lines 47-63).

As per claims 7, Salvo discloses the step of automatically generating an alert to an individual that an order may need to be placed for the at least one item (col. 8, lines 51-55).

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As per claims 8, Salvo discloses the step of automatically collecting information further comprises collecting usage pattern information associated with the at least one item (col. 10, lines 9-19).

As per claims 9, Salvo discloses the step of accessing the at least one electronic marketplace further comprises gather information on a market condition associated with the at least one inventory item (col. 6, lines 11-19).

As per claim 13, Salvo discloses wherein the one ore more sources comprise an embedded senor system (col. 4, lines 32-33).

As per claims 15-18 and 21-23, the Examiner notes that the limitations of claims 15-18 and 21-23 are substantially similar to those of claims 1-4, 9, and 13. Thus claims 15-18 and 21-23 are rejected under similar grounds.

As per claims 25 and 26, the Examiner notes that the limitations of claims 25 and 26 are substantially similar to those of claims 1-4, 7-9, and 13. Thus claims 25 and 26 are rejected under similar grounds.



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5. Claims 10 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al. United States Patent 5,749,081 (hereinafter Salvo) in view of Neumayer United States Patent Application Publication 2002/0168679 as applied to claims 1 and 15 above, and further in view of Whiteis U.S. Pat. 5,749,081.

As per claims 10 and 24, Salvo in view of Neumayer fails to disclose the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory.

However Whiteis discloses the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory (col. 3, lines 12-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Salvo in view of Neumayer to include the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory as taught by Whiteis. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide an accurate and subjective recommendation (Whiteis, col. 1, lines 64-67 and col. 2, lines 1-16).

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***Response to Arguments***

6. Applicant's arguments filed 15-Feb-2007 have been fully considered but they are not persuasive.

With respect to the argument regarding removing the Neumayer reference, the examiner notes that sufficient evidence has not been provided regarding diligence. The examiner has provided examples of what will further help establish diligence towards the reduction of practice of the invention. This argument is not

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Asfand M Sheikh  
Examiner  
Art Unit 3627

ams  
25-Apr-07

*Michael Cuff* 4/30/07  
**MICHAEL CUFF**  
**PRIMARY EXAMINER**